

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-3849

Alexej Herbert Sesterheim,

Petitioner,

v.

John Ashcroft, Attorney General of
the United States,

Respondent.

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* Petition for Review of
* an Order of the Board
* of Immigration Appeals.
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* [UNPUBLISHED]
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Submitted: August 5, 2004

Filed: August 5, 2004

Before MELLOY, LAY, and COLLOTON, Circuit Judges.

PER CURIAM.

Alexej Sesterheim, a German citizen, petitions for review of an order of the Board of Immigration Appeals affirming an Immigration Judge's (IJ's) denial of his application for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). Having carefully reviewed the record, we deny the petition.

We lack jurisdiction to review the IJ's conclusion that Sesterheim's asylum application was untimely and that he did not show extraordinary circumstances relating to his delay in seeking asylum. See 8 U.S.C. § 1158(a)(3); Ngure v.

Ashcroft, 367 F.3d 975, 988-89 (8th Cir. 2004). We agree with the IJ that Sesterheim was not entitled to withholding of removal, because he failed to demonstrate a clear probability that he would be persecuted based on one of the enumerated grounds if removed to Germany. See 8 U.S.C. § 1231(b)(3); Tawm v. Ashcroft, 363 F.3d 740, 744 (8th Cir. 2004) (for withholding of removal, alien must present evidence that it is more likely than not he would be persecuted if returned to country of removal). We also uphold the IJ's separate denial of CAT relief. See 8 C.F.R. § 208.16(c)(2) (2004) (under CAT, applicant has burden to show it is more likely than not that he would be tortured if removed to proposed country of return).

Accordingly, we deny Sesterheim's petition for review.
